

Our File No. 15471.0002

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Attorneys for Defendant Assuncao Brothers, Inc. and County of Essex

THERESA KRAEMER,

Plaintiff,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

Docket No. ESX-L-2912-20

vs.

Civil Action

NEWARK BETH ISRAEL HOSPITAL;
NEWARK BETH ISRAEL MEDICAL
CENTER; RWJ BARNABAS HEALTH,
INC.; COUNTY OF ESSEX, ASSUNCAO
BROTHERS, INC., COUNTY OF ESSEX,
CITY OF NEWARK, DEWBERRY
ENGINEERS, NV5, INC., JOHN DOES 1-
10; ABC CORPS 1-10

**NOTICE OF FILED BANKRUPTCY OF
DEFENDANT ASSUNCAO BROTHERS,
INC.**

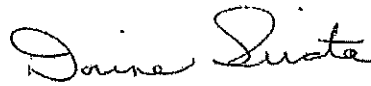
Defendants.

To: Robert Y. Cook, Esq.
Levinson Axelrod, P.C.
654 Lacey Road
Forked River, NJ 08731
Counsel for Plaintiff

PLEASE TAKE NOTICE that on August 3, 2022, Defendant Assuncao Brothers, Inc. filed a petition for relief under title 11 of the United States Code (the “Bankruptcy Code”), in the United States Bankruptcy Court, District of New Jersey (Newark) under Bankruptcy Petition No. 22-16159-CMG. A true and accurate copy of the Petition is attached hereto as **Exhibit “A.”**

Defendant Assuncao Brothers, Inc. suggests that pursuant to 11 U.S. Code § 362, titled “Automatic Stay,” this matter should be stayed pending further notice to the Court of the disposition of the bankruptcy case.

HALL BOOTH SMITH, P.C.
Counsel for Defendant Assuncao Brothers, Inc.

A handwritten signature in cursive script, appearing to read "Dorine Sirote".

DORINE SIROTA, ESQ.

Dated: September 30, 2022

EXHIBIT A

Fill in this information to identify your case:

United States Bankruptcy Court for the:

DISTRICT OF NEW JERSEY

Case number (if known)

Chapter 11

☐ Check if this an
amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy

06/22

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's name Assuncao Bros., Inc.

2. All other names debtor
used in the last 8 years

Include any assumed
names, trade names, and
doing business as names

3. Debtor's federal
Employer Identification
Number (EIN) 22-1643306

4. Debtor's address Principal place of business

Mailing address, if different from principal place of
business

29 Wood Avenue
Edison, NJ 08820

Number, Street, City, State & ZIP Code

P.O. Box, Number, Street, City, State & ZIP Code

Location of principal assets, if different from principal
place of business

Middlesex
County

Number, Street, City, State & ZIP Code

5. Debtor's website (URL) _____

6. Type of debtor

☐ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))

☐ Partnership (excluding LLP)

☐ Other. Specify: _____

Debtor Assuncao Bros., Inc.
Name

Case number (if known) _____

7. Describe debtor's business A. Check one:

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
☐ Railroad (as defined in 11 U.S.C. § 101(44))
☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
☒ None of the above

B. Check all that apply

- ☐ Tax-exempt entity (as described in 26 U.S.C. §501)
☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. §80a-3)
☐ Investment advisor (as defined in 15 U.S.C. §80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.

2373

8. Under which chapter of the Bankruptcy Code is the debtor filing? Check one:

- ☐ Chapter 7
☐ Chapter 9

☒ Chapter 11. Check all that apply:

A debtor who is a "small business debtor" must check the first sub-box. A debtor as defined in § 1182(1) who elects to proceed under subchapter V of chapter 11 (whether or not the debtor is a "small business debtor") must check the second sub-box.

- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$3,024,725. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
☐ The debtor is a debtor as defined in 11 U.S.C. § 1182(1), its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$7,500,000, and it chooses to proceed under Subchapter V of Chapter 11. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
☐ A plan is being filed with this petition.
☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11 (Official Form 201A) with this form.
☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years? ☒ No.
☐ Yes.

If more than 2 cases, attach a separate list.

District
District

When
When

Case number
Case number

Debtor Assuncao Bros., Inc.
Name

Case number (if known) _____

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?
- ☐ No
☒ Yes.

List all cases. If more than 1, attach a separate list

Debtor
District

When

Relationship
Case number, if known

11. Why is the case filed in this district?

Check all that apply:

- ☒ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- ☐ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

- ☐ No
☒ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- ☒ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety. What is the hazard? _____
- ☐ It needs to be physically secured or protected from the weather.
- ☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- ☐ Other _____

Where is the property?

Number, Street, City, State & ZIP Code

Is the property insured?

- ☐ No
☒ Yes. Insurance agency
Contact name _____
Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

- ☒ Funds will be available for distribution to unsecured creditors.
- ☐ After any administrative expenses are paid, no funds will be available to unsecured creditors.

14. Estimated number of creditors

- ☐ 1-49
☐ 50-99
☐ 100-199
☒ 200-999

- ☐ 1,000-5,000
☐ 5001-10,000
☐ 10,001-25,000

- ☐ 25,001-50,000
☐ 50,001-100,000
☐ More than 100,000

15. Estimated Assets

- ☐ \$0 - \$50,000
☐ \$50,001 - \$100,000
☐ \$100,001 - \$500,000
☐ \$500,001 - \$1 million

- ☒ \$1,000,001 - \$10 million
☐ \$10,000,001 - \$50 million
☐ \$50,000,001 - \$100 million
☐ \$100,000,001 - \$500 million

- ☐ \$500,000,001 - \$1 billion
☐ \$1,000,000,001 - \$10 billion
☐ \$10,000,000,001 - \$50 billion
☐ More than \$50 billion

16. Estimated liabilities

- ☐ \$0 - \$50,000

- ☒ \$1,000,001 - \$10 million

- ☐ \$500,000,001 - \$1 billion

Debtor	Assuncao Bros., Inc.	Case number (if known)
	Name	
	<input type="radio"/> \$50,001 - \$100,000	<input type="radio"/> \$10,000,001 - \$50 million
	<input type="radio"/> \$100,001 - \$500,000	<input type="radio"/> \$50,000,001 - \$100 million
	<input type="radio"/> \$500,001 - \$1 million	<input type="radio"/> \$1,000,000,001 - \$10 billion
		<input type="radio"/> \$10,000,000,001 - \$50 billion
		<input type="radio"/> More than \$50 billion

Debtor **Assuncao Bros., Inc**
Name

Case number (A known)

MI Request for Relief, Declaration, and Signatures

WARNING - Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 USC §§ 152, 1341, 1519, and 3571

17. Declaration and signature of authorized representative of debtor
- The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.
- I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 3, 2022

MM/DD/YYYY

X

Signature of authorized representative of debtor

Martin Assuncao

Printed name

Title **President and Chief Executive Officer**

0. Signature of attorney X

/s/ Joseph J. DiPasquale

Date **August 3, 2022**

Signature of attorney for debtor

MM/DD/YYYY

Joseph J. DiPasquale 016191994
Printed name

Fox Rothschild LLP
Firm name

49 Market Street
Morristown NJ 07960
Number, Street, City, State & ZIP Code

Contact phone (973) 548-3368

Email address **jdiPasquale@foxrothschild.com**

016191994 NJ
Bar number and State

Fill in this information to identify your case:

United States Bankruptcy Court for the:

DISTRICT OF NEW JERSEY

Case number (if known)

Chapter 11

☐ Check if this an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy

06/22

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2. All other names debtor used in the last 8 years
Include any assumed names, trade names and doing business as names

3. Debtor's federal Employer Identification Number (EIN) 22-1643306

4. Debtor's address Principal place of business

Mailing address, if different from principal place of business

29 Wood Avenue
Edison, NJ 08820
Number, Street, City, State & ZIP Code

P.O. Box, Number, Street, City, State & ZIP Code

Middlesex
County

Location of principal assets, if different from principal place of business

Number, Street, City, State & ZIP Code

5. Debtor's website (URL) _____

6. Type of debtor
☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
☐ Partnership (excluding LLP)
☐ Other. Specify: _____

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Name

Case number (if known) _____

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☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
☒ None of the above

B. Check all that apply

- ☐ Tax-exempt entity (as described in 26 U.S.C. § 501)
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☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

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Check one:

- ☐ Chapter 7
☐ Chapter 9

☒ Chapter 11. Check all that apply:

- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D), and its aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$3,024,725. If this sub-box is selected, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
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☐ A plan is being filed with this petition.
☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11 (Official Form 201A) with this form.
☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

If more than 2 cases, attach a separate list.

- ☒ No.
☐ Yes.

District _____
District _____

When _____
When _____

Case number _____
Case number _____

Debtor **Assuncao Bros., Inc.**
Name

Case number (if known)

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?
- ☒ No
☐ Yes.

List all cases. If more than 1, attach a separate list

Debtor
District

When

Relationship

Case number, if known

11. Why is the case filed in this district?

Check all that apply:

- ☒ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
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12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

☒ No

☐ Yes.

Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- ☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard?

- ☐ It needs to be physically secured or protected from the weather.

- ☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

- ☐ Other

Where is the property?

Number, Street, City, State & ZIP Code

Is the property insured?

☐ No

☐ Yes. Insurance agency

Contact name

Phone

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

- ☒ Funds will be available for distribution to unsecured creditors.
- ☐ After any administrative expenses are paid, no funds will be available to unsecured creditors.

14. Estimated number of creditors

☐ 1-49

☐ 50-99

☐ 100-199

☒ 200-999

☐ 1,000-5,000

☐ 5001-10,000

☐ 10,001-25,000

☐ 25,001-50,000

☐ 50,001-100,000

☐ More than 100,000

15. Estimated Assets

☐ \$0 - \$50,000

☐ \$50,001 - \$100,000

☐ \$100,001 - \$500,000

☐ \$500,001 - \$1 million

☒ \$1,000,001 - \$10 million

☐ \$10,000,001 - \$50 million

☐ \$50,000,001 - \$100 million

☐ \$100,000,001 - \$500 million

☐ \$500,000,001 - \$1 billion

☐ \$1,000,000,001 - \$10 billion

☐ \$10,000,000,001 - \$50 billion

☐ More than \$50 billion

16. Estimated liabilities

☐ \$0 - \$50,000

☒ \$1,000,001 - \$10 million

☐ \$500,000,001 - \$1 billion

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Document Page 4 of 5

Debtor

Assuncao Bros., Inc.

Case number (if known)

Name

- ☐ \$50,001 - \$100,000
☐ \$100,001 - \$500,000
☐ \$500,001 - \$1 million

- ☐ \$10,000,001 - \$50 million
☐ \$50,000,001 - \$100 million
☐ \$100,000,001 - \$500 million

- ☐ \$1,000,000,001 - \$10 billion
☐ \$10,000,000,001 - \$50 billion
☐ More than \$50 billion

Debtor **Assuncao Bros., Inc.**
Name

Case number (if known)

Request for Relief, Declaration, and Signatures

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

**17. Declaration and signature
of authorized
representative of debtor**

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 3, 2022

MM/DD/YYYY

X

Signature of authorized representative of debtor

Title President and Chief Executive Officer

Martin Assuncao

Printed name

18. Signature of attorney

X /s/ Joseph J. DiPasquale

Date August 3, 2022

MM/DD/YYYY

Signature of attorney for debtor

Joseph J. DiPasquale 016191994

Printed name

Fox Rothschild LLP

Firm name

49 Market Street

Morristown, NJ 07960

Number, Street, City, State & ZIP Code

Contact phone (973) 548-3368

Email address jdipasquale@foxrothschild.com

016191994 NJ

Bar number and State

Honorable Christine M. Gravelle
United States Bankruptcy Judge

Upon consideration of the motion by Robert Y. Cook, Esq. for an Order granting relief from the automatic stay of proceedings in the state court action entitled *Kraemer v. Newark Beth Israel Medical Center, et als*; and good cause appearing therefore, it is hereby

ORDERED that the automatic stay of proceedings entered in the state court action entitled *Kraemer v. Newark Beth Israel Medical Center, et als*, in the Superior Court of New Jersey, Essex County, bearing Docket Number ESX-L-2912-20 pursuant to 11 *U.S.C.* § 362(a) is hereby modified to the extent of permitting the continuance and prosecution of the state court action solely for the purpose of determining the liability, if any of Assuncao Brothers, Inc. to Theresa Kraemer, and to permit the enforcement, by Theresa Kraemer, of any claim of, or judgment obtained by her against Assuncao Brothers, Inc., in the state court action against the insurance proceeds available under the applicable policy or policies of insurance maintained by Assuncao Brothers, Inc., and it is

ORDERED that enforcement of any judgment obtained by Theresa Kraemer in the state court action entitled *Kraemer v. Newark Beth Israel Medical Center, et als*, venued in the Superior Court of New Jersey, Essex County, bearing Docket Number ESX-L-2912-20 shall be limited to the insurance proceeds available under the applicable insurance policy maintained by Assuncao Brothers Inc., and it is

ORDERED that the provisions of § 362 of the Bankruptcy Code prohibiting execution, enforcement or collection by plaintiff of any judgment or judgments that may be obtained against Assuncao Brothers Inc., in the state court action entitled *Kraemer v. Newark Beth Israel Medical Center, et als*, venued in the Superior Court of New Jersey, Essex County, bearing Docket Number ESX-L-2912-20 against any and all assets of the Assuncao Brothers Inc., shall remain in

full force and effect and Theresa Kraemer shall not attempt to cause any action to be taken to collect any portion of such judgment or judgments from the assets or properties of Assuncao Brothers Inc., or any of its successors-interest.